

FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, DC 20426

December 28, 2006

In Reply Refer To:  
Midwest Independent Transmission  
System Operator, Inc., and the  
Transmission Owners of the Midwest  
Independent Transmission System  
Operator, Inc.  
Docket No. ER07-113-000

Midwest Independent Transmission  
System Operator, Inc.  
Attn: Lori A. Spence, Esq.  
Associate General Counsel  
701 City Center Drive  
Carmel, IN 46032

Dear Ms. Spence:

1. On October 31, 2006, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO), the Midwest ISO Transmission Owners,<sup>1</sup> and the Midwest Stand-

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<sup>1</sup> The Midwest Transmission Owners for this filing consist of: Alliant Energy Services, Inc. on behalf of its operating company affiliate Interstate Power and Light Company (f/k/a IES Utilities Inc. and Interstate Power Company); Ameren Services Company, as agent for Union Electric Company d/b/a AmerenUE, Central Illinois Public Service Company d/b/a AmerenCIPS, Central Illinois Light Company d/b/a AmerenCILCO, and Illinois Power Company d/b/a AmerenIP; American Transmission Systems, Incorporated, a subsidiary of FirstEnergy Corp.; City of Columbia Water and Light Department (Columbia, MO); City Water, Light & Power (Springfield, IL); Duke Energy Shared Services, Inc. f/k/a Cinergy Services, Inc. for The Cincinnati Gas & Electric Co. d/b/a Duke Energy Ohio, Inc., PSI Energy, Inc. d/b/a Duke Energy Indiana, Inc., and The Union Light, Heat, and Power Company d/b/a Duke Energy Kentucky, Inc.; Great River Energy; Hoosier Energy Rural Electric Cooperative Inc.; Indiana Municipal Power Agency; Indianapolis Power & Light Company; Michigan Public Power Agency; Minnesota Power (and its subsidiary Superior Water, L&P); Montana-Dakota Utilities Co.; Northern Indiana Public Service Company; Northern States Power Company, a Minnesota corporation, and Northern States Power Company, a Wisconsin Corporation, subsidiaries of Xcel Energy Inc.; Northwestern Wisconsin Electric Power Company;

(continued)

Alone Transmission Companies (MSATs)<sup>2</sup> (collectively Filing Parties) submitted for filing with the Commission proposed revisions to the rate formulae in Schedule 1 and Attachment O of the Midwest ISO Open Access Transmission and Energy Markets Tariff (TEMT).<sup>3</sup> The proposed revisions are ministerial in nature, updating the Uniform System of Accounts references in the rate formulae to reflect the modifications to the Uniform System of Accounts adopted by the Commission in Order No. 668<sup>4</sup> (*i.e.*, the rate formulae with the proposed revisions will produce the same rates as would be produced by the existing formulae absent the change to the Uniform System of Accounts). The proposed changes are conditionally accepted for filing, effective January 1, 2007, as requested, subject to the compliance filing ordered below.

2. Notice of the filing was published in the *Federal Register*, 71 Fed. Reg. 65,487 (2006), with interventions and protests due on or before November 21, 2006. Consumers Energy Company (Consumers Energy) filed a timely motion to intervene and comments in opposition to certain proposed Attachment O provisions. On December 6, 2006, International Transmission and Michigan Electric filed an answer to Consumers Energy's protest.

3. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2006), the timely unopposed motions to intervene serve to make the entities that filed them parties to the proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2006), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept

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Otter Tail Power Company; Southern Illinois Power Cooperative; Southern Indiana Gas & Electric Company (d/b/a Vectren Energy Delivery of Indiana); Southern Minnesota Municipal Power Agency; Wabash Valley Power Association, Inc.; and Wolverine Power Supply Cooperative, Inc.

<sup>2</sup> The MSATs for this filing consist of: American Transmission Company, LLC; International Transmission Company d/b/a ITCTransmission (International Transmission) and Michigan Electric Transmission Company, LLC (Michigan Electric).

<sup>3</sup> Schedule 1 sets forth the rate formula for Scheduling, System Control and Dispatch Service, and Attachment O sets forth the rate formulae for transmission service.

<sup>4</sup> *Accounting and Financial Reporting for Public Utilities Including RTOs*, FERC Stats. & Regs. ¶ 31,199 (2005) (Order No. 668), *reh'g denied*, FERC Stats. & Regs. ¶ 31,215 (Order No. 668-A), *reh'g denied*, 117 FERC ¶ 61,066 (2006).

International Transmission and Michigan Electric's answer because it has provided information that assisted us in our decision making process.

4. In Order No. 668, the Commission established three new transmission expense sub-accounts, Account Nos. 561.4, 561.8, and 575.7, for public utilities and licenses to record their share of costs billed to them by Regional Transmission Organizations (RTOs).<sup>5</sup> The Filing Parties state that, in the Midwest ISO, such expenses are billed to load-serving entities (LSEs) directly and are not factored into the transmission owners' revenue requirements. Accordingly, the Filing Parties propose to revise certain Attachment O rate formulae to provide that any expenses that are charged by the Midwest ISO and recorded in these sub-accounts by transmission owners are to be excluded from the transmission owners' revenue requirement. However, the Filing Parties do not propose such revisions to the Attachment O rate formulae for International Transmission and Michigan Electric. The Filing Parties state that, as independent transmission companies, these two transmission owners are by definition not LSEs and are not assessed the type of expenses that would otherwise be recorded in these sub-accounts.

5. Consumers Energy states that it objects to the omission of the line item adjustments related to the three new sub-accounts, Account Nos. 561.4, 561.8 and 575.7, from International Transmission and Michigan Electric's Attachment O rate formulae. Consumers Energy believes that adding those adjustments to these formulae now, and not just to the formulae of the LSE transmission owners as the Filing Parties' propose, would prevent the need for future proceedings if the Midwest ISO, at some future time, decides to assess such costs against non-LSE transmission owners. Furthermore, Consumers Energy states the customers of non-LSE transmission owners should be given the same guarantee that any possible future costs from the three new sub-accounts identified above will not appear in Attachment O revenue requirements for the non-LSE transmission owners at a future time.

6. In their answer, International Transmission and Michigan Electric state that the Commission should not require the additional tariff revisions requested by Consumers Energy. They state that the filing revises the formulae to subtract amounts recorded in the new sub-accounts from the transmission revenue requirements on the grounds that such amounts are billed to LSEs within the Midwest ISO and that transmission owners that are LSEs would recover such amounts in retail rates, rather than in transmission rates charged by the Midwest ISO. They state that they are not LSEs and, hence do not incur the type of expenses that would otherwise be recorded in these sub-accounts. They state that the additional modifications sought by Consumers Energy presuppose that any future change in circumstance that results in International Transmission and/or Michigan Electric incurring costs recorded in Account Nos. 561.4, 561.8 or 575.7 would

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<sup>5</sup> Order No. 668 at P 63, 67.

necessarily require an adjustment to remove those costs from the calculation of their transmission revenue requirements. They assert that this assumption is speculative. International Transmission and Michigan Electric state that, unlike other transmission owners, they are not LSEs, do not serve retail customers, do not have tariffs on file with state utility commissions and do not recover their revenue requirements through retail rates. Instead, they state, recovery of all their costs occurs at the wholesale level through their transmission revenue requirements and rates charged by the Midwest ISO. Therefore, International Transmission and Michigan Electric state that they disagree with Consumers Energy's basic assumption that any future changes that result in International Transmission or Michigan Electric incurring costs recorded in these sub-accounts would necessarily require an adjustment to remove those costs from the calculation of transmission revenue requirements under Attachment O. As long as they remain independent transmission companies, they assert that they will likely remain wholly dependent on transmission rates for cost recovery under well-accepted cost-of-service ratemaking principles. Thus, they assert that Consumers Energy's request could deny International Transmission and Michigan Electric the opportunity to recover costs that may be recorded in Account Nos. 561.4, 561.8, 575.7 in the future.

7. International Transmission and Michigan Electric acknowledge the possibility that they could incur costs in the future that would be recorded in the sub-accounts under discussion, and that the inclusion of such costs in the calculation of transmission owner revenue requirements could be inappropriate if it leads to improper charging of certain classes of customers if the costs were otherwise double counted. However, they state, this would only be possible if International Transmission and Michigan Electric were to cease being independent transmission companies and were to become LSEs. International Transmission and Michigan Electric argue that the chances of such changes are too remote. Moreover, if such changes do occur, International Transmission and Michigan Electric state that they will likely be required to file Attachment O revisions under section 205 of the Federal Power Act (FPA)<sup>6</sup> or, if International Transmission and Michigan Electric fail to file such revisions, Consumers Energy and other customers will be free to pursue whatever changes they feel are appropriate in a section 206 complaint.<sup>7</sup>

8. We will not direct the changes to International Transmission and Michigan Electric's rate formulae that Consumers Energy requests. Unlike the other transmission owners, International Transmission and Michigan Electric are independent transmission companies that recover all of their costs through their rates for wholesale transmission service. As long as they remain independent transmission companies, even if circumstances change that result in their incurring costs recorded in Account Nos. 561.4,

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<sup>6</sup> 16 U.S.C. § 824d (2000).

<sup>7</sup> 16 U.S.C. § 824e (2000).

561.8 or 575.7, there is no basis to conclude that such costs would not be appropriately included in their transmission revenue requirement.

9. Moreover, in approving the formation of International Transmission and Michigan Electric as independent transmission companies and certain rate treatments in consideration of their independence, the Commission directed the companies to inform the Commission of any change in circumstances relied upon by the Commission in those decisions.<sup>8</sup> Thus, if International Transmission or Michigan Electric are no longer independent transmission companies such that they incur costs recorded in Account Nos. 561.4, 561.8 or 575.7 that are not appropriately recovered in their transmission rates, they must inform the Commission, and the Commission can take appropriate action at that time to ensure that their transmission rates are just and reasonable.

10. Although the Filing Parties correctly proposed updates to their Attachment O and Schedule 1 formulae to match the change in account designations adopted in Order No. 668, they failed to update the Form No. 1 page and line references. A revised FERC Form No. 1 was included as Appendix B to Order No. 668, with revised lines and pages included in Order No. 668-A in Appendix A, to take into account the new accounts and sub-accounts created by the orders. Therefore, we will direct the Filing Parties to submit revised tariff sheets to update the Form No. 1 page and line references to match the current Form No. 1 template.

11. Furthermore, we find an error in the description of the allocator applied to the LSE expense adjustment for the Attachment O rate formulae of LSE transmission owners. While the proposed revisions correctly reflect a fixed unity value for this allocation factor, the description incorrectly refers to the transmission expense or “TE” allocator. We direct the Filing Parties to submit revised tariff sheets removing this incorrect reference to the “TE” allocator.

12. We direct the Filing Parties to file the revised tariff sheets directed above within 30 days of the date of this order.

By direction of the Commission. Commissioner Moeller not participating.

Magalie R. Salas,  
Secretary.

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<sup>8</sup> *Trans-Elect, Inc.*, 98 FERC ¶ 61,142, at ordering para. (G), *order on reh’g*, 98 FERC ¶ 61,368 (2002); *ITC Holdings Corp.*, 102 FERC ¶ 61,182, at ordering para. (K), *order denying reh’g and accepting compliance filing*, 104 FERC ¶ 61,033 (2003).